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March 15, 2007

*By Federal Express Standard Overnight
March 15, 2007*

Marin County Community Development Agency
Attn: Tim Hadad
3501 Civic Center Drive, Room 308
San Rafael, CA 94903-4157

**RE: Comments of Almonte District Improvement Club Regarding Updated
Marin Countywide Plan of 2005**

To Whom It May Concern:

This office represents the Almonte District Improvement Club (“ADIC”) regarding the draft environmental impact report (“DEIR”) for the Updated Marin Countywide Plan of 2005 (“CWP”).

ADIC is a 501(c)(3) non-profit Organization/Public Benefit Corporation. ADIC has been in existence for almost 70 years. It consists of a Board of Directors and all the residents of the Almonte neighborhood, which is part of unincorporated Mill Valley. The main purpose of ADIC is to promote and contribute to the civic welfare and betterment of the Almonte District Community and its environment. In doing so, ADIC promotes community awareness and encourages the discussion of questions of the day. It maintains the Almonte Clubhouse for community programs and activities. ADIC is the voice of Almonte, addressing issues such as: emergency preparedness, land use and development, flood control, marshland protection, open space, public transportation, traffic congestion, beautification, and basic infrastructure, including road safety and maintenance.

The conclusion of ADIC after careful review of the CWP, the DEIR, and other relevant evidence is that the DEIR should not be certified for several reasons. First, the assumption or conclusion by the County that it is required to provide additional housing regardless of the significant adverse impacts that housing would cause to the health and safety of current and future residents is incorrect. Second, the mitigations proposed for 2 many of the unmitigable impacts are not adequate. Third, some of the impacts of implementing the CWP have not been adequately analyzed. Fourth, the impacts of irreversible destruction of former wetlands that could be restored have not been

considered at all. Finally, the harms caused by certain unmitigable impacts outweigh any benefits that could be provided by implementing the CWP.

Revision and recirculation of the DEIR for public comment would more adequately analyze the significant adverse impacts of this proposed project, as well as adequate alternatives and mitigations thereto. Approval of this project as proposed and without revision and recirculation of the DEIR will undoubtedly result in violations of CEQA.

Please include this office and that of the Almonte District Improvement Club, 215 Julia Avenue, Mill Valley, CA 94941 in any further communications to the public by your office on this proposed project. In particular, please provide us with a copy of your determination.

Sincerely,

Jeff Hoffman

I. MARIN COUNTY NEED NOT PROVIDE ADDITIONAL HOUSING WHERE THE COUNTY FINDS THAT THE PROVISION WOULD HAVE AN ADVERSE IMPACT UPON PUBLIC HEALTH OR SAFETY.

A county is not required to construct additional housing developments, including low income housing, where it finds that developments “would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. As used in this paragraph, a ‘specific, adverse impact’ means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” (Gov. Code, § 65589.5(d)(2).)

Marin County (“County”) assumes or concludes that it must, without exception, provide more housing to meet its regional housing obligation, regardless of the significant adverse impacts this provision would have upon County residents (CWP, p. 3-97, ¶ 1). However, Government Code section 65589.5(d)(2) clearly provides an exception to this obligation. As discussed in detail in section VII, the DEIR identified four unmitigable significant impacts to the water supply of the County if the CWP were to be implemented. (DEIR, pp. 4.9-89, 4.9-114, 4.9-120, and 4.9-121.) Most of the impacts would be to transportation (DEIR, p. 2.0-53, ¶ 1), at least one of which has direct safety implications.

The County is therefore not obligated to provide more housing developments, because it can show that it does not have a sufficient water supply for those developments nor can it mitigate the traffic impacts that involve safety to a less-than-significant level. Instead, the County should find that it is unable to construct any new developments until it can identify enough water supply to provide for its current needs and those of new residents, and should defer any developments that would add to the already dangerous traffic situation until it can mitigate the significant impacts that development would have on that situation.

A. The DEIR Found That The County Does Not Have A Sufficient Water Supply For The Needs Of Its Current Residents, And Adding New Residents Would Thus Have An Adverse Impact On Public Health And Safety.

The County has a current water deficit of 3,648 acre feet per year (“AFY”) (DEIR, p. 4.9-75) and the Marin Municipal Water District (“MMWD”), by far the largest water district in the County, currently has a water supply deficit (DEIR, p. 4.9-84, ¶ 1), so that the demand for water in both the County as a whole and in the largest water district in the County is currently greater than the supply.

New developments would certainly have a specific adverse impact on public health and safety, because everyone needs a sufficient amount of potable water to be healthy and a minimal amount just to stay alive. New developments, whose additional water demands would outstrip additional supplies, would cause a danger to the health and safety of County residents by adding to the current water deficit. The County could then

become unable to supply its residents with a sufficient amount of potable water to remain healthy. The impacts have been found to be significant and unavoidable if the CWP were to be implemented, and they are clearly quantifiable, as the quantity of water demand in the County exceeds the supplies.

B. The Currently Unacceptable Level Of Service Of Some Roadways Has An Adverse Impact On Public Safety, And Adding New Residents Would Increase That Adverse Impact By Adding Additional Traffic.

The level of service (“LOS”) on Highway 1 between U.S. 101 and Almonte Boulevard is currently unacceptable, and implementation of the CWP would be a significant unmitigable impact. (DEIR, p. 2.0-7.) Because of the high traffic volume, the current unacceptable LOS, and the lack of safe pedestrian crossings, the area in and around the intersection of Highway 1 and Almonte Boulevard presents a danger to the current area residents. (Exh A, ¶ 2; Exh. B, p. 3, ¶ 5.) Implementation of the CWP would only exacerbate this situation by adding more automobile and pedestrian traffic to the already dangerous area, creating an even greater danger to the current and future residents.

II. THE DEIR DOES NOT PROPERLY ANALYZE FUTURE CARBON MONOXIDE CONCENTRATIONS ALONG ROADWAYS, BECAUSE IT IMPROPERLY ASSUMES IMPROVEMENTS IN EXHAUST SYSTEMS AND FUELS THAT WOULD REDUCE AIR POLLUTION.

An EIR must discuss “significant effects on the environment ... in proportion to their severity and probability of occurrence.” (Cal. Code Regs., tit. 14 (“14 CCR”), § 15143, emphasis added.) “An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published ...” (14 CCR, § 15125(a), emphasis added.)

Instead, the DEIR states that while some intersections have air pollutant concentrations at “levels that are currently below ambient air quality standards[,] [t]he concentrations are anticipated to decrease substantially in the future with improvements to exhaust systems and reformulated fuels,” concluding that there will be no significant impacts from additional carbon monoxide due to implementation of the CWP, even though there will be more traffic. (DEIR, p. 4.3-23, ¶¶ 1, 2.) The DEIR offers no support for the assumption that exhaust systems and fuels will improve or that any improvements would reduce carbon monoxide levels at the intersections where the levels are currently below air quality standards to a less-than-significant level. Nor does the DEIR provide any evidence of when these improvements are likely to be implemented. The anticipated improvements and reformulations neither exist currently nor does the DEIR show any reasonable probability of their existence in the near future. An unsupported statement, that someday soon people will be driving cars that emit less carbon monoxide, is not an adequate analysis of what the levels of that pollutant are likely to be after the CWP is implemented. The DEIR needs to analyze how much carbon monoxide per vehicle the improvements and reformulations could reasonably be expected to attain, to estimate the levels of carbon monoxide concentrations that would occur at the intersections in

question should the CWP be implemented, and to forecast, as accurately as possible, the time at which these improvements will actually be in place on operating vehicles and in fuels. The current analysis of this impact in the DEIR is thus inadequate.

III. THE DEIR DOES NOT PROPERLY ANALYZE IMPACTS TO SPECIAL STATUS SPECIES, BECAUSE IT FAILS TO RECOGNIZE THEIR ACTUAL EXISTENCE ADJACENT TO A HOUSING OVERLAY DESIGNATION AND TO PARCELS ALLOWED TO BE DEVELOPED OR REDEVELOPED BY THE CWP.

A project that would “substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare or threatened species” is a project that will “have a significant effect on the environment.” (14 CCR, § 15065(a)(1).) “An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published” (14 CCR., § 15125(a), emphasis added.)

The DEIR admits that land uses and development pursuant to the CWP could result in the loss of populations or essential habitat for special-status species (DEIR, p. 4.6-30, Impact 4.6-1), but claims that those impacts would be reduced to less-than-significant due to the policies of the CWP and a mitigation for fish. (DEIR, p. 4.6-35, Significance After Mitigation.) There is a housing overlay designation (“HOD”) adjacent to Bothin Marsh that would allow redevelopment and increase the density at this site. (CWP, Map 3-2b, following p. 3-16, small “dot” right side of HOD east of Shoreline Highway.) The CWP would also allow development of the area designated as “NC” just below the marsh, which is currently open space, or redevelopment with greater density than already exists in two additional areas designated as “GC” adjacent to the marsh. (Id., Map 6.1.4, following p. 3-234.)

The California clapper rail and salt marsh harvest mouse, both special-status species, are found in Bothin Marsh. (Marin County Open Space District, Guide to selected species of Bothin Marsh, <http://www.enature.com/parkguides/localguide_park_display.asp?rgn=PK_1038&showType=5&curGroupID=1&curFamilyID=253> [as of March 9, 2007]; http://www.enature.com/parkguides/localguide_park_display.asp?rgn=PK_1038&showType=5&curGroupID=5&curFamilyID=560 [as of March 11, 2007].) However, the DEIR does not recognize that fact, merely stating that HOD parcels in the Kentfield and Mill Valley vicinities “could support steelhead and other special-status species.” (DEIR, p. 4.6-32, second full paragraph.) By failing to recognize the actual existence of the clapper rail and harvest mouse adjacent to an HOD and to parcels of land proposed for development and redevelopment, and by instead merely recognizing that some unidentified land that might include Bothin Marsh “could support” some unidentified special-status species, the DEIR underestimates the potential harm to these species. This failure to adequately analyze the potential significant impacts of implementing the CWP upon two actually existing species renders the analysis of the potential impacts to the California clapper rail and the salt marsh harvest mouse inadequate.

IV. THE DEIR DOES NOT PROPOSE ADEQUATE MITIGATIONS FOR SIGNIFICANT TRAFFIC IMPACTS, BECAUSE THE MITIGATIONS PROPOSED ARE SPECULATIVE, LEGALLY INFEASIBLE, OR BOTH.

“An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.” (14 CCR, § 15126.4(a)(1), emphasis added.) Mitigations that are proposed in order to either eliminate a significant impact or to reduce it to less than significant may not be speculative due to, inter alia, lack of current funding. (See *Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1260, 1261.) “Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified.” (14 CCR, § 15126.4(a)(1)(B).) “Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant.” (14 CCR, § 15126.4(a)(1)(C), emphasis added.) Mitigations that would require action that is beyond the authority of the lead or responsible agencies are, by law, infeasible. (Pub. Resources Code, § 21004; 14 CCR, § 15040.)

The DEIR identifies 24 significant unmitigable impacts to traffic, including cumulative impacts. (DEIR, pp. 4.2-43 to 4.2-65.) The proposed mitigations for traffic impacts are road widenings that are either unplanned, unfunded, or have environmental constraints or lack community support that prevent their actualization, and are therefore either speculative or inadequate. (Id. at p. 4.2-47, Mitigation Measure 4.2-3; p. 4.2-48, Mitigation Measure 4.2-4; p. 4.2-49, Mitigation Measure 4.2-5; etc.)

Furthermore, mitigations requiring road widening are not within the authority of the County, but lie instead within the authority of other agencies, such as Caltrans (DEIR, p. 4.2-40, ¶ 2), and are thus infeasible. Therefore, the DEIR has not in fact proposed any adequate mitigations for these impacts, because the mitigations proposed are speculative, inadequate, infeasible, or some combination thereof.

The DEIR must propose adequate, feasible mitigations for all significant impacts that would be caused by implementation of the CWP. (Pub. Resources Code, §§ 21100(b)(3), 21102, 21102.1(a); 14 CCR, § 15126.4(a)(1).) One adequate and feasible mitigation would be to lower the number of housing units in order to reduce the impacts on traffic to less-than-significant, which is allowable where other mitigations are not feasible. (Pub. Resources Code, § 21159.26.) The DEIR must discuss this mitigation, because it is both adequate and feasible, and because no other feasible mitigations have been found to be adequate.

V. THE DEIR UNDERESTIMATES THE IMPACTS FROM ADDITIONAL DRIVING, BECAUSE IT FAILED TO ADEQUATELY CONSIDER THE IMPACTS FROM LACK OF PARKING AT BUS HUBS THAT CAUSES ADDITIONAL DRIVING.

A. The DEIR Fails To Consider The Additional Traffic That Would Be Caused By The Lack Of Parking Spaces At Bus Stops.

Parking lots at public transit stops are full, which causes persons who wish to take buses to drive instead of taking public transit when they are unable to find a parking space. (Exh. C, p. 2, ¶ 3.) Where additional housing is created in these areas, even more people who want to take buses would be forced to drive due to the lack of parking spaces at bus stops. The DEIR fails to consider these additional drivers and their effects on air pollution, energy consumption, and traffic. (DEIR, pp. 4.3-17, “TCM #15” 4.3-19, “Significance After Mitigation.”) Consideration of energy consumption is required by CEQA. (14 CCR, § 15126.4(a)(1)(C).) The DEIR should consider the reasonable mitigation of increasing the parking spaces at bus hubs in order to mitigate the impacts that population growth will otherwise have on energy consumption, traffic, and pollution, including greenhouse gasses.

B. The DEIR Underestimates The Amount Of Driving That Will Occur, Because It Underestimates The Number Of Drivers.

The CWP assumes that low income people will use public transit. (CWP, p. 3-106, HS-3.7.) This assumption is completely unsupported. Instead, the reality is that the vast majority of Americans drive. Even in neighboring San Francisco, which is very congested and has good public transportation, two thirds of the residents own vehicles and drive. In Marin County, which is not congested compared to San Francisco and where public transit is spotty at best, people will be significantly more inclined to drive and forgo using public transportation. The DEIR errs by assuming, without evidence to support that assumption, that low income persons will use public transit and will not drive. This assumption and the lack of consideration of adequate parking at bus hubs have created a flawed analysis, causing the DEIR to underestimate the additional driving and its impacts that implementation of the CWP will cause.

VI. THE CWP COULD ALLOW ILLEGAL SUBDIVISIONS DUE TO THE LACK OF ADEQUATE WATER SUPPLIES.

The Tam Junction Shopping Center, west of Shoreline Highway and Almonte Boulevard, is included in the HOD and is proposed for up to 30 dwelling units per acre. (CWP, Map 6.1.4, following p. 3-234.) This site is approximately 9.1 acres, which would allow up to 273 dwelling units in this parcel alone. The CWP would also allow up to 30 dwelling units per acre in other areas across the roads from the shopping center and adjacent to the marsh if certain conditions are met. (CWP, p. 3-34, ¶ 3, CWP, p. 3-36, second full paragraph; CWP, Map 6.1.4, following p. 3-234.) The proposed combined allowable units would far exceed 500 in these parcels, which could trigger the requirement that Marin County identify an adequate water supply for this potential subdivision in order for the final subdivision map to be approved. (Gov. Code, § 66473.)

Because the DEIR admits that the MMWD would face a net deficit of 10,049 acre feet of water per year, a final subdivision map could not be approved for this area. In order to void potential violations of section 66473 of the California Planning and Land Use Act, the CWP should not be approved without removing the parcels proposed for new developments or at least greatly lowering their proposed density levels.

VII. THE DEIR FAILS TO PROPOSE ADEQUATE MITIGATIONS FOR SIGNIFICANT IMPACTS TO THE COUNTY'S WATER SUPPLY.

An EIR must propose adequate, feasible mitigations for all environmental impacts of a project that it finds to be significant. (Pub. Resources Code, §§ 21100(b)(3), 21102, 21102.1(a); 14 CCR, § 15126.4(a)(1).) Pursuant to the requirements of Water Code sections 10910, and 10911(b) and (c), the DEIR found that there will be significant unmitigable impacts to five major areas concerning water from implementation of the CWP: 1) the adequacy of water supply during normal rain event years (DEIR, p. 4.9-89), 2) the adequacy of water supply during drought and multiple-drought years (DEIR, p. 4.9-114), 3) ground water supply (DEIR, p. 4.9-120), 4) water supply quantity, quality, or both (DEIR, p. 4.9-121), and 5) secondary environmental impacts, such as impacts to “instream flow regimes” and aquatic habitat (DEIR, p. 4.9-122).

A. The DEIR Failed To Propose An Adequate Mitigation For The Significant Impact Caused By Additional Demand Upon The Inadequate Water Supply During Normal Rain Event Years.

The County currently has a water supply deficit of 2,464 acre feet per year (“AFY”). (DEIR, p. 4.9-83.) Implementation of the CWP would cause an expected increased demand for water in Marin County of 9,242 AFY by the year 2030. (DEIR, p. 4.9-75, “Demand” statistics at bottom.) Water supplies in the County are only expected to increase by 1184 AFY during that time. (Id. at ¶ 3.) This is expected to cause an increased water supply deficit of 8,661 AFY. (DEIR, p. 4.9-83.)

During the same time period, during normal rain event years, the MMWD, which provides most of the supply and experiences most of the demand in the County, is expected to suffer a decrease in water supply of more than 8.5% while demand is expected to increase by more than 17%. (DEIR, p. 4.9-76.) Overall, by the year 2030, the MMWD is expected to have a water deficit of 10,049 AFY if the CWP were implemented. (DEIR, p. 4.9-83.) Even without any further development the County and MMWD already have a current supply deficit. (Ibid.) The DEIR found that there is no way to mitigate this impact to the level of less-than-significant (DEIR, pp. DEIR, p. 4.9-89, ¶ 5), but it failed to consider adequate, feasible mitigations.

An adequate, feasible mitigation for the significant impact to County water supplies that implementation of the CWP would cause would be to reduce or eliminate the proposed developments until the County can identify an adequate source of water for current and future residents, pursuant to the findings of the DEIR regarding lack of adequate water supply and to Government Code section 65589.5(d)(2) discussed above. An adequate, feasible mitigation for the significant impact on the water supplies of the MMWD would be to move the areas proposed for development to parcels in areas where

there is expected to be more supply of water than demand for it, such as the North Marin Water District (“NMWD”) in Novato. (DEIR, p. 4.9-83.)

Whatever the benefits of implementing the CWP might be, they cannot possibly outweigh the significant negative impacts of the County or MMWD not being able to provide sufficient water for the needs of current or future residents. While ADIC supports the water conservation measures in the CWP and DEIR, they are strongly opposed to any development within the County or the MMWD that would add to the already very difficult task of supplying sufficient water to the persons in the County or the district.

B. The DEIR Failed To Propose An Adequate Mitigation For The Significant Impact Caused By Additional Demand Upon The Inadequate Water Supply During Drought And Multi-Drought Years.

The DEIR also found that during drought years or multi-drought years, the County and all of its water agencies currently have supply deficits for multi-drought years, with MMWD and the Bolinas District (“BCPUD”) experiencing a deficit for even one drought year. (DEIR, p. 4.9-113.) Again, this impact cannot be mitigated to a level of less-than-significant. (DEIR, p. 4.9-114.) For the same reasons discussed directly above, the DEIR must propose the adequate, feasible mitigation of reducing or eliminating proposed developments until an adequate supply of water can be identified for future and current residents of the County. Even if an adequate water supply for the County as a whole were to be identified, the DEIR should propose moving the areas proposed for developments to parcels in areas where demand for water is not expected to exceed supplies in order to mitigate the significant impact of the additional demand for water that will add to the net water deficiency in the MMWD during drought or multi-drought years. (DEIR, pp. 4.9-95, 96.)

C. The DEIR Failed To Propose An Adequate Mitigation For The Remainder Of Significant Impacts Caused By Increased Water Demand.

As discussed above, the DEIR identified three additional significant unmitigable impacts due to increased water demand (ground water supply, water supply quantity, quality, or both, and secondary environmental impacts, such as impacts to “instream flow regimes” and aquatic habitat). Again, the DEIR proposed no adequate mitigations for these impacts and needs to do so, such as reduction or elimination of proposed developments until adequate mitigations are identified that would reduce these impacts from implementation of the CWP to less-than-significant.

VIII. THE DEIR FAILED TO CONSIDER THAT THE LATEST INFORMATION ON GLOBAL CLIMATE CHANGE SHOWS THAT AREAS WITHIN SOME HODs AND OTHER PARCELS WHERE DEVELOPMENT OR REDEVELOPMENT WOULD BE ALLOWED WILL BE IN THE 100-YEAR FLOODPLAIN, AND THAT AREAS ALREADY RECOGNIZED AS BEING WITHIN THE FLOODPLAIN WOULD BE UNDER MORE WATER THAN PREVIOUSLY ESTIMATED.

According to the San Francisco Bay Conservation and Development Commission, a California agency created by the Legislature to, inter alia, regulate development in and around San Francisco Bay, the parcels in the HOD and otherwise proposed for development or redevelopment consisting of 1) the Tam Junction Shopping Center west of Shoreline Highway, 2) the parcels east of Shoreline Highway, and 3) the other low lying areas of Tamalpais Valley will all likely be under water within 100 years or sooner due to global climate change. (Exh. D, p. 1, ¶¶ 1, 5 and map; CWP, Map 3-2b following p. 3-16; CWP, Map 6.1.4, following p. 3-234.) The DEIR did not consider this new information in its discussion about potential flooding. (DEIR, pp. 4.5-4 – 4.5-6, 4.5-22, 23; 4.5-41 – 4.5-44; 4.5-46 – 4.5-50.) Because the sea and Bay levels are fundamental in determining whether an area is in the 100-year floodplain, the DEIR failed to adequately consider the impacts of placing HODs in areas that could likely be in that floodplain very soon.

IX. THE DEIR FAILED TO CONSIDER WHETHER INCREASING HOUSING DENSITY IN FLOOD PRONE AREAS MIGHT SIGNIFICANTLY INCREASE THE RISK OF FLOODING DUE TO INCREASED SOIL COMPACTION.

The CWP would allow up to 30 dwelling units per acre on designated parcels if certain conditions were met. (DEIR, p. 3.0-33, ¶ 2.) The HOD and proposed changes to the Land Use Designations for the Tam Valley and Almonte communities of the Richardson Bay Planning Area (“Tam Valley/Almonte”) allows this density increase. (CWP, Map 3-2b, following p. 3-16.) Sea level rise caused by global climate change, which will cause rises in tide elevations of San Francisco and San Pablo Bays, will further increase the risk of flooding in Tam Valley/Almonte. (DEIR, pp. 4.5-5, 4.5-6.) Placing housing within a 100-year floodplain, as determined by a flood hazard delineation map, is considered a significant environmental effect. (DEIR, p. 4.5-22, last paragraph.) The suggestion for the update of the Environmental Quality Element of the 1994 CWP, Policy EQ-2.65, prohibits building on 100-year floodplains. (DEIR, Appendix 1-J, p. 25, “Bayfront Conservation Areas.”)

Development, including increased density of housing, will cause increased soil compaction, which will in turn further increase the risk of flooding in Tam Valley/Almonte. (DEIR, p. 4.5-41, last paragraph.) Yet, the DEIR fails to consider the effect of increased soil compaction caused by increased housing density on the already increased risk of flooding in this area. (The DEIR considered the effect of soil compaction due to development on storm water drainage system capacities, but not

flooding.) This factor needs to be considered to determine whether increased density of housing would further the risk of increased flooding significantly and, if so, whether or how this increased risk could be mitigated.

X. THE CWP IS NOT CONSISTENT WITH BAAQMD THRESHOLDS OF SIGNIFICANCE, MAKING AIR POLLUTION ANOTHER SIGNIFICANT UNMITIGABLE IMPACT THAT ALLOWS THE COUNTY TO FORGO NEW DEVELOPMENT AT THIS TIME.

Inconsistency with (i.e., exceedence of) the Bay Area Air Quality Management District's ("BAAQMD") guidelines and thresholds for air pollution is considered a significant environmental impact (DEIR, p. 4.3-11.) Even after mitigation, the actions allowed or caused by the CWP would cause a significant unmitigable increase in air pollution. (DEIR, p. 4.3-15, "Significance After Mitigation.")

Again, because of the clear, significant, and unmitigable adverse impacts to the health of the residents and future residents, the County should declare that it is unable to construct any new developments until it can mitigate the impacts of implementing the CWP upon the air quality of the County.

XI. THE DEIR FAILED TO ANALYZE THE IMPACTS OF ALLOWING DEVELOPMENT IN PARCELS NEAR BOTHIN MARSH THAT WERE FORMERLY MARSH AND COULD BE RESTORED.

Bothin Marsh is located east of Shoreline Highway and east of the southern end of Almonte Boulevard. (CWP, Map 6.1.4, following p. 3-234.) There is one HOD and numerous parcels allowed increased density by the proposed Land Use Designations of the Draft CWP which are located adjacent to the marsh. (*Ibid.*) This land was once part of Bothin Marsh. Restoration of the portion of this land, which sits between Coyote Creek and the north side of the Fantasma lot, back to the marsh has been advocated by Tam Valley and Almonte residents for decades. (Exh E, p. 1, ¶ 5.)

Were development allowed on this land, any chance of restoring it to marsh land would be significantly impaired. Land value would increase, making it more difficult to fund the purchase of the land for restoration. The DEIR fails to mention potential restoration of Bothin Marsh, and therefore does not analyze the irreversible impacts, of developing land that was once part of the marsh and that could be restored, to the marsh and its restoration.

XII. THE DEIR FAILS TO PROPOSE ADEQUATE MITIGATIONS FOR THE SIGNIFICANT UNMITIGABLE IMPACTS TO HUMAN BEINGS FROM PROPOSED BUILDING ON FILLED MARSH AREAS, AND THOSE IMPACTS OVERRIDE ANY BENEFITS THAT IMPLEMENTATION MIGHT PROVIDE.

Pursuant to Public Resources Code section 21083(b)(3) and Title 14 of the California Code of Regulations section 15065(a)(4), the DEIR found that implementation of the CWP would have significant unmitigable impacts to persons living in new or redeveloped

buildings due to risk of injury or death from even moderate seismic activity. (DEIR, p. 4.7-24, ¶¶ 7, 8.) The DEIR then describes the areas in which the danger is greatest, which includes Tamalpais Valley. (Id. at p. 4.7-26, ¶ 1.) Because the proposed mitigations for this impact do not reduce the impact to less-than-significant, and because the areas proposed for development can be moved to areas that are underlain with bedrock and that thus do not present a significant impact due to seismic activity, the DEIR must propose this adequate mitigation. Moreover, there can be no benefit that would result from implementation of the CWP that would override the impact of severe injury or loss of life from building on ground known to be unstable in even a moderate seismic event, and any HODs or land use designations that would allow further development and that are proposed on this type of land, specifically those in Tamalpais Valley, should be removed from the CWP.

Location of HODs and parcels of land proposed for greater density on land that is seismically unsafe, such as those in Tamalpais Valley is in direct conflict with CWP Policy EH-2.1 (CWP, p. 2-68) that seeks to avoid development in seismically hazardous areas. Although the HODs and other parcels proposed for allowable increased density are not located on the prohibited Alquist-Priolo zone in west Marin, implementation of the CWP would subject persons in and around structures built on filled land that is highly susceptible to liquefaction to the unmitigable significant impacts of potential serious injury or death in the event of moderate seismic activity. In order to conform to Policy EH-2.1, the HODs and the proposed changes to the Land Use Designations which increase allowable density must be removed from areas that have been identified as seismically dangerous, such as the areas underlain by artificial fill over marsh deposits in Tamalpais Valley.

CONCLUSION

The DEIR is inadequate for the foregoing reasons. It needlessly assumes or concludes that the County is required to provide additional housing, regardless of the harm that would cause to the health and safety of current and future residents. It totally fails to discuss the potentially significant impact of developing former marsh land that could be restored, does not adequately consider other impacts, and it fails to propose adequate mitigations for significant impacts that it claimed would be unmitigable. If the EIR fails to properly and adequately address all potentially significant environmental impacts of implementation of the CWP or fails to propose adequate and feasible mitigations for each significant impact, it may not be certified. Doing so would be a clear violation of CEQA. If the County of Marin wishes to proceed toward granting approval of this proposed project, the DEIR should be rewritten and recirculated.

However, a better course of action would be for the County to rewrite the CWP to reflect the current problems with water supply, traffic, and air pollution, and to find that no new development is appropriate until these problems are cured, which should include a comprehensive plan with adequate funding is in place to accommodate future sea level rise and inundation. The County now has sufficient information to understand that the HODs and the proposed changes to the Land Use Designations that increase allowable

density if certain criteria are met are inappropriate, especially for the areas in which they are planned. Not only would construction of new housing exacerbate these already existing problems, doing so when the County admits that it currently has a water supply deficit defies logic, as does doing so when the DEIR identified 42 significant unmitigable impacts should the CWP be implemented. The County should return with a CWP that is appropriate for its current situation and does not sacrifice the health, well-being, and happiness of its current and future residents.